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EXAMINER

PHAN, JOSEPH T

ART UNIT PAPER NUMBER

2614

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/797,273

Applicant(s)

EMAM ET AL.

Examiner

Joseph T. Phan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 1,14,17, 24, and 32 objected to because of the following informalities:

Lines 5-7 recites "based upon at least one of thePDA, vehicle, and GPS, the inferred current status is based upon at least a probabilistic model" This phrase has grammatical errors as it appears "the inferred current status" is part of the 'at least one of' the features since a comma is used immediately preceding.

Claim 32 line 3 recites "a function of particular caller". This phrase has grammatical errors which could raise antecedent basis issues.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 23, 31, and 38 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The language of the claims raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

Claims 23, 31, and 38, claims the non-statutory subject matter of a 'computer readable medium having stored instructions'. Computer readable medium, having stored instructions, as defined by applicant's specification(page 5 lines 12-17), could be

a carrier(i.e. signal) which is not tangible whereby applicant has not complied with 35 U.S.C. 101.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1,14,17, 24, and 32 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 14 lines 5-6 recites *"the preferences define responses based at least upon an inferred current status of the called user based upon at least one of the called user's video camera, microphone, keyboard, GPS..."* It is unclear what the 2nd 'based upon' is referring to, which makes it confusing as to how the video camera, microphone, GPS is used as based upon. This confusion makes the claim indefinite. Appropriate clarification and/or correction is required.

Claim 14 lines 5-6, claim 17 lines 3-7, and claim 24 lines 4-5 recites *"the rules are based at least upon an inferred current status of the called user based upon..."* It is unclear and confusing what the 2nd 'based upon' is referring to. This confusion makes the claim indefinite. Appropriate clarification and/or correction is required.

Claims 32 lines 4-5 recites *"the rule is based at least upon an inferred current status of the called user based upon a probabilistic model"* It is unclear what the 2nd 'based upon' is referring to, as it could either refer to the 'rule' or the 'status of the called user' which makes it confusing and indefinite. Appropriate clarification and/or correction

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is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-38 rejected under 35 U.S.C. 102(b) as being anticipated by Tatchell et al., Patent #6,160,877.

Regarding claim 1, Tatchell teaches, as best understood due to the 112 confusion above, a call processing system(Fig.1) comprising:

a switch component to receive incoming telephone calls and a client computer system that receives data from the switch component regarding caller identity and generates a customized response in accordance with user defined preferences(col.10 lines 53-67, col.14 line 7, and col.18 lines 56-67), the preferences define responses based at least upon an inferred current status of the called user based upon at least one of the called user's calendar application, video camera, microphone, keyboard, PDA, vehicle, and GPS, the inferred current status is based upon at least a probabilistic model(*col.19 lines 1-19; e.g., time is based on client's schedule/calendar application*).

Regarding claim 2, Tatchell teaches the system of claim 1, the computer system comprising a call processing component that generates a message to be played to a caller(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 3, Tatchell teaches the system of claim 2, the call processing component comprising a preference store for housing user defined rules(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 4, Tatchell teaches the system of claim 3, further comprising a preference application programming interface component adapted to receive one or more preferences and store them in the preference store(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 5, Tatchell teaches the system of claim 2, further comprising a preference execution component adapted to receive and/or retrieve preferences from the preference store and generate a response to an incoming call(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 6, Tatchell teaches the system of claim 2, further comprising a translation component adapted to translate a message from a first language to a second language(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 7, Tatchell teaches the system of claim 2, wherein the call processing component provides for a client subscriber to be notified(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 8, Tatchell teaches the system of claim 7, further comprising a context component that determines client context to facilitate selection of an appropriate notification device and means of notification(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 9, Tatchell teaches the system of claim 8, the notification device including one of a mobile phone, a pager, a personal computer and a personal digital assistant(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 10, Tatchell teaches the system of claim 1, wherein the preferences define responses based on a client's status at a given time as specified in a calendar application(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 11, Tatchell teaches the system of claim 1, wherein the client computer system is a personal computer(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 12, Tatchell teaches the system of claim 1, wherein the client computer system is a television set-top box(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 13, Tatchell teaches the system of claim 1, wherein the client computer system is a gaming console(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 14, Tatchell teaches, as best understood, a dynamic call processing system comprising: a means for receiving incoming calls(Fig.1); a means for providing a client device information about a caller; and a means for dynamically constructing a message for the caller based at least in part on a called user's specified rules, the rules are based at least upon an inferred current status of the called user based upon at least one of the called user's calendar application, video camera, microphone, keyboard, PDA, vehicle, and GPS, the inferred current status is based

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upon at least a probabilistic model((col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19; *e.g., time is based on client's schedule/calendar application*).

Regarding claim 15, Tatchell teaches the system of claim 14, further comprising a means of playing the constructed message to the caller(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 16, Tatchell teaches the system of claim 14, further comprising a means for notifying a client subscriber of a phone call(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 17, Tatchell teaches, as best understood, a method of call processing comprising: receiving an incoming call, validating the caller against one or more called user's rules; and constructing a customized message for the caller, the rules are based at least upon an inferred current status of the called user calendar application, video camera, microphone, keyboard, PDA, vehicle, and GPS, the inferred current status is based upon at least a probabilistic model(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19; *e.g., time is based on client's schedule/calendar application*).

Regarding claim 18, Tatchell teaches the method of claim 17, further comprising playing the message to the caller(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 19, Tatchell teaches the method of claim 17, wherein the call is parked after it is received to provide sufficient time for message construction(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 20, Tatchell teaches the method of claim 19, wherein a ring tone is simulated while the call is parked(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 21, Tatchell teaches the method of claim 19, wherein an audio message asks the caller to hold while the call is processed(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 22, Tatchell teaches the method of claim 17, further comprising notifying a called person of a call(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 23, Tatchell teaches the computer readable medium having stored thereon computer executable instructions for carrying out the method of claim 17(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 24, Tatchell teaches, as best understood, a method for providing customized call responses comprising: receiving an incoming telephone call from a caller, providing a client device caller identification information, receiving a message from the client device, (col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19), the message based at least upon an inferred current status of the called user based upon at least one of the called user's calendar application, video camera, microphone, keyboard, PDA, vehicle, and GPS, the inferred current status is based upon at least a probabilistic model(*col.19 lines 1-19; e.g., time is based on client's schedule/calendar application*).

Regarding claim 25, Tatchell teaches the method of claim 24, wherein the call is received utilizing a telecommunication switch(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 26, Tatchell teaches the method of claim 24, further comprising parking the call after receiving it to provide sufficient time to receive a message from the client device(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19). Regarding claim 27, Tatchell teaches the method of claim 26, wherein parking a call includes simulating a ring tone(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 28, Tatchell teaches the method of claim 26, wherein parking a call include asking a caller to hold while the call is processed(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 29, Tatchell teaches the method of claim 24, wherein the client device applies client preferences to generate customized messages for each caller or group of callers(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 30, Tatchell teaches the method of claim 24, further comprising notifying a client subscriber of call(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 31, Tatchell teaches the computer readable medium having stored thereon computer executable instructions for carrying out the method of claim 24(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 32, Tatchell teaches, as best understood, the customized call processing methodology comprising: receiving caller identification information; and generating a customized message, wherein the message is a function of particular caller and a specified called user rule, the rule is based at least upon an inferred current status of the called user based upon a probabilistic model(*col.19 lines 2-19; greeting is based on called user's caller id rule in which the rule is created based on that the caller will probably call; 'probabilistic' is broad enough to also read on other embodiments*).

Regarding claim 33, Tatchell teaches the method of claim 32, wherein the caller identification information is received from a telecommunication company(*col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19*).

Regarding claim 34, Tatchell teaches the method of claim 32, wherein the caller identification information is received via an instant messaging channel, thereby avoiding interference from firewalls(*col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19*).

Regarding claim 35, Tatchell teaches the method of claim 32, wherein the customized message is a function of the called party's status(*col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19*).

Regarding claim 36, Tatchell teaches the method of claim 35, the called party's status is determined utilizing data associated with one or more software applications stored on the party's computing device(*col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19*).

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Regarding claim 37, Tatchell teaches the method of claim 36, wherein the application is a calendar or scheduling application(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Regarding claim 38, Tatchell teaches the computer readable medium having stored thereon computer executable instructions for carrying out the method of claim 32(col.10 lines 53-67, col.14 line 7, col.18 lines 56-67, and col.19 lines 2-19).

Response to Arguments

5. Applicant's arguments with respect to claims 1-38 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph T. Phan whose telephone number is (571) 272-7544. The examiner can normally be reached on Mon-Fri 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JTP
September 15, 2006



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SUPERVISORY PATENT EXAMINER